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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,523	01/16/2004	Paul Anthony Thomas	60130-1987;03MRA0008	7042
26096	7590	06/01/2006	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			KING, BRADLEY T	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/759,523	THOMAS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bradley T. King	3683	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

The amendment filed 3/15/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendment of paragraph 28 recites "The pad spring surface 170 is defined by a profile having a substantially planar section 180 and two rounded edges 171 of radius Q. That is, the pad spring surface 170 has a substantially curved cross-section." These features appear to contradict each other as it is not clear how a substantially curved cross-section can be composed of a substantially planar region. Applicant is required to cancel the new matter in the reply to this Office Action. Also note that the reference number 172 is used in figure 7 to show a portion of the spring retainer. The substitute drawings fail to have any show any reference number identifying the spring lug.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 4-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 17-19 and 21 recite "spring lug". The original disclosure fails to provide proper antecedent basis for these limitations and the meaning is not clear. Note that the original disclosure defines lugs 150, however, the newly recited lug portions do not appear to correspond to those lugs. It is further not clear what is intended to be encompassed by "spring lug".

Claim 20 recites "a substantially curved cross-section". The original disclosure fails to provide antecedent basis and further appears to contradict this limitation. Note the second paragraph of page 5 which describes a planar section with two rounded edges.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 703 378 in view of Heinz et al (US# 4049087).

EP 0 703 378 discloses an assembly including; a brake caliper having an outboard side; a brake pad 12; a pad spring 26 including a spring planar region; and a

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pad retainer 32 including a retainer planar region having a first radius for engagement with said spring planar region of the pad spring to restrain radial movement of the brake pad, wherein the pad retainer is secured to the outboard side of the brake caliper at a second radius that is less than the first radius (see figure 3), the pad retainer further including a crook (see figure 3) at an end of the retainer planar region, wherein a part of the spring planar region engages the pad retainer, thereby defining an engaging region of the spring planar region. EP 0 703 378 lacks the lateral edge region of the engaging region adjacent to the outboard side of the brake caliper being rounded. Heinz et al discloses a similar spring assembly and further teach lug portions 5-6 to facilitate attachment to the brake pad. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include spring lugs as taught by Heinz et al on the spring of EP 0 703 378 to ensure proper retention, thereby increasing the security of the device. Also note figure 3 of Heinz.

Regarding claims 7-8, see figure 1.

Regarding claims 9-12, EP 0 703 378 further lack the specific crook radius dimension. It is noted that the instant disclosure fails to indicate any criticality in the dimension and further teaches that the ranges may be broadened. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize various crook radii of EP 0 703 378 and Heinz et al depending on the size of the brake assembly and thickness of the retainer to facilitate manufacture (thicker materials will bend to greater radii) and reduce stress concentrations in the element. Also note, *In*

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*Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984).

Regarding claim 21, the examiner takes official notice that the method steps of stamping and pressing are well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize stamping and pressing operations as known in the art to form the spring of EP 0703378 and Heinz et al as an obvious means of manufacture.

### ***Response to Arguments***

Applicant's arguments filed 3/15/2006 have been fully considered but they are not persuasive.

Regarding EP 0 703 378, please note the 112 1<sup>st</sup> rejections above as well as the specification objection. The amendment to the drawings does not appear to properly identify the lug portions. Also note the new rejections above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

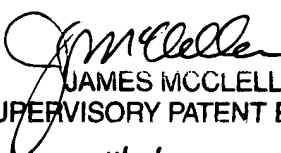
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BTK

  
JAMES MCCLELLAN  
SUPERVISORY PATENT EXAMINER  
5/30/01